

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

December 4, 2006

**CALL TO PODIUM:**

**Fred Felton**  
**Assistant City Manager**

**RESPONSIBLE STAFF:**

**Fred Felton**  
**Assistant City Manager**

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
<b>X</b>	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	10-03-06
Advertised	11-22-06
Hearing Date	12-04-06
Record Held Open	
Policy Discussion	

**TITLE:**

An Ordinance to Amend Chapter 2 of the City Code, Entitled "Administration", Article II, Entitled "Municipal-County Relations", Section 2-6 Thereof, Entitled "Exemption From Montgomery County Legislation And Regulations Within the City" so as to Include the Provisions of Section 24-211A Entitled "Fitness Centers-Defibrillators" of Chapter 24 of the Montgomery County Code Entitled "Health And Sanitation", as Being Applicable and Enforceable Within the City

**SUPPORTING BACKGROUND:**

During the August 21, 2006 Mayor and City Council meeting, the Mayor and members of the Council raised the possibility of making the County Code that requires defibrillators at commercial fitness centers applicable in the City of Gaithersburg.

Based on staff's initial research, it appears that there are 15 private facilities within corporate limits that would be required to have defibrillators if Section 24-11A of the County Code applied in Gaithersburg. Of these 15 facilities, eight already have defibrillators.

The attached ordinance would simply make Montgomery County's defibrillator requirement applicable in the City of Gaithersburg. The ordinance would be enforced by the County. I have also attached the relevant provision of the County Code.

On October 3, 2006 the Mayor and City Council voted to introduce the ordinance for public hearing.

**DESIRED OUTCOME:**

**Conduct public hearing. Staff recommends that the Mayor and City Council hold the record open until Wednesday December 13, 2006 at 5:00 PM, with final action on December 18, 2006.**

# The Gazette Newspapers

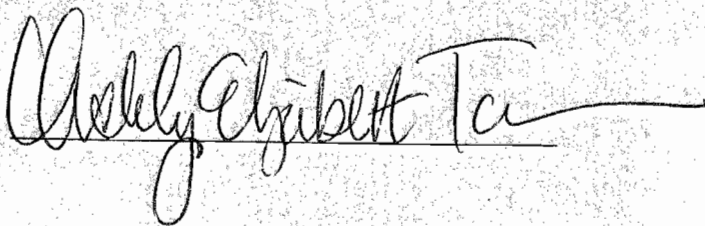
9030 Comprint Court, Gaithersburg, Maryland 20877, 301-670-2620

## CERTIFICATION OF PUBLICATION

THIS IS TO CERTIFY THAT THE ANNEXED LEGAL ADVERTISEMENT HAS BEEN PUBLISHED IN THE GAZETTE NEWSPAPERS FOR THE NUMBER OF INSERTIONS INDICATED BELOW.

## NOTICE OF PUBLIC HEARING: DEFIBRILLATOR

Gazette Legal Advertising Department



Ashby Elizabeth Tanner  
Notary Public, State of Maryland  
Montgomery County  
My Commission Expires April 6, 2010

### Copy of Ad attached

Ad Order Number: 0010549234 - 1535910

Dates: St.: 11/22/06 End: 11/22/06 Ins.: 1

### NOTICE OF PUBLIC HEARING

The Mayor and City Council of the City of Gaithersburg will hold a public hearing on:

**MONDAY**  
**December 4, 2006**  
**7:30 P.M.**

or as soon thereafter as it can be heard in the Council Chambers at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland on the following:

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY CODE, ENTITLED "ADMINISTRATION", ARTICLE II, ENTITLED "MUNICIPAL-COUNTY RELATIONS", SECTION 2-6 THEREOF, ENTITLED "EXEMPTION FROM MONTGOMERY COUNTY LEGISLATION AND REGULATIONS WITHIN THE CITY" SO AS TO INCLUDE THE PROVISIONS OF SECTION 24-211A ENTITLED "FITNESS CENTERS-DEFIBRILLATORS" OF CHAPTER 24 OF THE MONTGOMERY COUNTY CODE ENTITLED "HEALTH AND SANITATION", AS BEING APPLICABLE AND ENFORCEABLE WITHIN THE CITY

Further information may be obtained from the City Manager's Office, 31 South Summit Avenue between the hours of 8 a.m. and 5 p.m., Monday through Friday.

David B. Humpton  
City Manager

10549234  
1535910

(11-22-06)

**DRAFT**  
Ordinance NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY  
CODE, ENTITLED "ADMINISTRATION", ARTICLE II, ENTITLED  
"MUNICIPAL-COUNTY RELATIONS", SECTION 2-6 THEREOF, ENTITLED  
"EXEMPTION FROM MONTGOMERY COUNTY LEGISLATION AND REGULATIONS  
WITHIN THE CITY" SO AS TO INCLUDE THE PROVISIONS OF SECTION 24-211A  
ENTITLED "FITNESS CENTERS-DEFIBRILLATORS" OF CHAPTER 24 OF THE  
MONTGOMERY COUNTY CODE ENTITLED "HEALTH AND SANITATION", AS  
BEING APPLICABLE AND ENFORCEABLE WITHIN THE CITY

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in  
public meeting assembled, that Chapter 2 of the City Code, entitled "Administration",  
Article II, entitled "Municipal-County Relations", Section 2-6 thereof, is hereby amended  
to read as follows:

CHAPTER 2  
ADMINISTRATION

\* \* \* \*

ARTICLE II. MUNICIPAL-COUNTY RELATIONS

Sec. 2.6. Exemption from Montgomery County legislation and regulations within  
the City.

It is hereby ordained by the Mayor and City Council of the City of Gaithersburg,  
Maryland, that pursuant to the authority granted by Article 23A, Section 2B(a), of the  
Annotated Code of Maryland, as enacted by Chapter 398 of the Laws of Maryland,  
1983, and further pursuant to Chapter 33 of the Laws of Montgomery County, 1984, as  
codified in Chapter 2, Section 2-96 of the Montgomery County Code (1972 edition, as  
amended), as may hereafter from time to time be amended, the City of Gaithersburg,  
Maryland, is hereby declared exempt from any and all legislation and regulations  
pertaining hereto, heretofore or hereafter enacted by Montgomery County, Maryland,  
relating to any subject or matter upon which the Mayor and City Council of the City, or  
the City of Gaithersburg, as a municipal corporation, has been heretofore or is hereafter  
granted legislative authority, with the following exceptions which shall hereafter be  
applicable to and within the City of Gaithersburg, Maryland.

Chapter Title, Montgomery County Code 1984, as amended:

Chapter 1 -

\* \* \* \*

Chapter 24 – Health and Sanitation, Sec.24-11A of said Chapter

\* \* \* \*

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2006, by the City Council of Gaithersburg, Maryland.

\_\_\_\_\_  
Sidney A. Katz, Mayor and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this \_\_\_\_ day of \_\_\_\_\_, 2006. APPROVED/VETOED by the Mayor of the City of Gaithersburg, this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the \_\_\_\_ day of \_\_\_\_\_, 2006, and that the same was approved by the Mayor of the City of Gaithersburg on the \_\_\_\_ day of \_\_\_\_\_, 2006. This Ordinance becomes effective on the day of \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
David B. Humpton, City Manager

**Section 24-11A. Fitness Centers—Defibrillators.**

(a) In this Section the following terms have the following meanings:

(1) *Automated External Defibrillator* means a portable electronic device that provides an electric shock to the heart in order to reestablish normal contraction rhythms in a heart having dangerous arrhythmia or that is in cardiac arrest.

(2) *Business* includes a for-profit or non-profit organization.

(3) *Commercial fitness center* means a business where members, clients, or customers engage in exercise indoors.

(4) *Exercise* means an activity that requires strenuous physical exertion, either to develop and maintain fitness or to compete in a sport. Exercise includes weight lifting, cardio-fitness training, aerobic fitness training, yoga, pilates, jazzercise, circuit training, spinning, and stepping. Exercise also includes playing basketball, volleyball, soccer, ice hockey, tennis, racquetball, squash, and any similar indoor sport.

(b) Every commercial fitness center must have available at all times when the center is open at least one Automated External Defibrillator in good working order and at least one staff member who is trained in its use. This requirement does not apply to any fitness center where not more than 3 persons are employed. As used in this subsection only, "employed" means that a person regularly works more than 20 hours per week.

(c) (1) This Section is not intended to impose any civil liability, or relieve any person from civil liability, regarding the presence or use of, or failure to use, any Automated External Defibrillator, except as expressly provided in paragraph (2).

(2) A commercial fitness center, or any employee of a center, is not liable in connection with the use or nonuse of an Automated External Defibrillator, unless:

(A) the center has not made an Automated External Defibrillator available as this Section requires; or

(B) an employee of a center has acted with gross negligence or engaged in willful or wanton misconduct.

(d) Any violation of this Section is a class C civil violation. The County Attorney or any affected person may file an action in a court with jurisdiction to enjoin repeated violations of this Section.

(e) The County Fire and Rescue Service must investigate each complaint alleging a violation of this Section and take appropriate action, including issuing a citation when compliance cannot be obtained otherwise. The Department of Health and Human Services may, if requested, assist the Service in enforcing this Section. (2004 L.M.C., ch. 26, § 1.)

**Article II. Reserved.** [Note]

Secs. 24-12-24-21. Reserved.